

**REPORT - PLANNING COMMISSION MEETING  
May 27, 2004**

**Project Name and Number:** Prasad Residence (PLN2003-00099)

**Applicant:** Dayanand and Veena Prasad

**Proposal:** To consider Site Plan and Architectural Approval for a new 7,038 square foot residence (includes a 1,034 square foot attached garage).

**Recommended Action:** Approve, subject to conditions

**Location:** 44301 Hunter Terrace, Mission San Jose Planning Area

**Assessor Parcel Number(s):** 513-0305-054-00

**Area:** 43,575 square feet or 1 Acre

**Owner:** Dayanand and Veena Prasad

**Agent of Applicant:** Jim Gibbon, Architect

**Environmental Review:** The proposed single-family residence is categorically exempt under CEQA per Section 15303, New Construction of a single-family residence in a residential zone.

**Existing General Plan:** Hill Face Open Space, Low Density Residential 2 to 3.5 dwelling units per acre (Development Reserve Overlay)

**Existing Zoning:** R-1-20 (H-I) (R); and, O-S, Open-Space, under Measure T.

**Existing Land Use:** Undeveloped

**Public Hearing Notice:** Public hearing notification is applicable. A total of 18 notices were mailed to owners and occupants of property within 300 feet of the site on the following streets: Hunter Terrace, Hunter Lane, and Linda Vista Road, Vista Cerro Terrace, among others. The notices to owners and occupants were mailed on May 17, 2003. A Public Hearing Notice was delivered to The Argus on May 10, 2004 to be published by May 17, 2003.

**BACKGROUND (Measure T and Project):** In November of 2002, the citizens of Fremont adopted the Hill Initiative of 2002 (Measure T), which made several changes to hill area development regulations, including the modification of the "Toe of the Hill" definition, which was originally defined under the Hill Initiative of 1981, Measure A. The new definition of the Toe of the Hill ("TOH") is important because the regulations under Measure T, as well as the original Measure A initiative, apply to properties located above the "TOH" line. Properties located above the TOH line are considered within the "Hill Area" of Fremont, and development within the Hill Area is only permissible if the performance standards adopted, primarily to preserve the natural beauty of the Hill Area and to minimize the visual and environmental impacts of development, are met. The new definition of the Toe of the Hill (TOH) is ***"a line along the base of the hills where the natural grade first becomes twenty percent (20%) or more on the western side of the Hill Area from the Fremont-Union City boundary to the Alameda-Santa Clara County boundary, and on both sides of Niles Canyon and Route 680 east of Mission Boulevard to the Fremont city limits"*** [emphasis added]. The new definition of the TOH is more inclusive and further refined than the 1981 Measure A definition. Areas excluded under the 1981 Measure A definition of TOH may now be above the 2002 Measure T definition of TOH, as is the case with a portion of this property. Measure T applies to *"proposed development that has not received all necessary discretionary City and other authorizations and approvals prior to the ordinance's [Measure T] effective date, except to the extent precluded by State law"* (Section 18(b) of Measure T).

In October of 2002, the applicant applied for a building permit (via the Development Organization Review process) to construct a 7,032 square foot residence (includes a 1,034 square foot garage). The application was received one month prior to the voter-adoption of the Measure T, which happened in the following November. Based on the previous information on the location of the TOH line, staff had believed that the entire subject parcel was shown below the TOH line. Measure T was thus not applied in reviewing the application for a building permit. However, the recently proposed TOH line map, consistent with the new TOH definition of Measure T, shows a portion of the subject parcel as being located above the TOH. Upon this finding, staff contacted and informed the applicant that the project is subject to Measure T. The applicant was advised to revise the project and then proceed to the Planning Commission.

It should be noted that the new TOH line based on Measure T has not been formally adopted and that the applicant has voluntarily agreed to work with staff to revise the project for consistency with Measure T as well as all other applicable Hill Area standard and policies, and then proceed to the Planning Commission for consideration.

**Project Description:** The applicant requests Site Plan and Architectural Approval of a 7,038 square foot single-family residence. This includes 1,034 square feet of total garage space within an attached three-car garage. The architect has described the house as influenced by a Mediterranean style of architecture.

## **PROJECT ANALYSIS:**

**General Plan Conformance:** The existing General Plan land use designation for the project site is Hill Face Open Space, Low Density Residential 2 to 3.5 dwelling units per acre (Development Reserve Overlay). The proposed project is consistent with the existing General Plan land use designation for the project site because the development of one single-family residence is permitted on the subject parcel.

**Zoning Regulations:** The proposed residence conforms to the R-1-20 (R) site standards, which require a 35-foot front yard setback; a minimum 10-foot side yard setback, total both sides 25 feet; and, a 40-foot rear yard setback. The proposed home also conforms to the 30-foot height limit. The subject parcel is also contains a "R" (Development Reserve) overlay designation. The purpose of the Development Reserve overlay is to promote and encourage the orderly development of the hill area and to meet the particular problems associated with these areas. Development in this particular area is not anticipated to be problematic as public facilities have been provided and serve the subdivision.

**Parking:** The FMC requires a minimum of three covered parking spaces per single-family dwelling with five or more bedrooms. In satisfying this requirement, the proposed project provides three covered parking spaces. Additionally, the motor courtyard provides at least three additional uncovered parking spaces.

**Waste Management:** This project is subject to the provisions of the California Integrated Waste Management Act of 1989 (AB939), the City's Source Reduction and Recycling Element (1992), the Integrated Waste Management Ordinance (1995), and the Commercial/Industrial Recycling Plan (1997). These documents require that any new project for which a building permit application is submitted to include adequate, accessible, and convenient areas for collecting and loading trash and recyclable materials. For storage purposes, the garbage and recyclable containers for this project must be located in an appropriate location and fully screened, subject to review and approval by Development Organization staff (Condition A-19).

## **DESIGN ANALYSIS:**

**Architecture:** The applicant's architect indicates that the design of the residence is influenced by a Mediterranean style of architecture. In summary, the architect believes the following elements incorporated in the project are consistent with Mediterranean style architecture: Mission "S" Santa Fe roofing tiles; projecting balconies with baluster railings; earth tone stucco colors; and, a slate stone veneer. Additionally, the architect indicates that stucco moldings, the cornice, horizontal and vertical jogs of exterior walls and stucco finished eaves add further enhancements to the project to make it compatible with the character of the surrounding area.

In recognizing the concerns of staff, the applicant's architect has revised the design of the residence to achieve compliance with Measure T and the Hill Area Development Policy. Much of the concerns staff raised during the building permit review phase of the project have been addressed. Staff outlines and discusses the previous concerns below.

- *The previously proposed roof design featured an excessive and continuous roofline over the entire upper floor, making the roof visually dominate, not conforming to the provisions of the Hill Area Development Policy and visual safeguard provisions of Measure T. The main roof element over the residence needed to be broken up so as to appropriately step with the natural grade.*

Discussion: The architect has redesigned the roofline to provide a more interesting and varied profile. It has been broken up into "smaller group elements" as described by the architect. As compared to the previous proposal, the roofline of the redesigned residence better reflects the existing grade of the lot and is consistent with the visual safeguard provisions of Measure T, as further discussed below.

- *The previously proposed residence appeared massive. The massing of the structure needed to be broken up and better fit with the natural contours of the "Hill Area".*

Discussion: The architect has appropriately redesigned the residence by reducing the overall size of the residence as a result of revising the floor plan.

- *The residence as previously proposed did not step with the natural contours. The residence should be rotated approximately 13.5 degrees counterclockwise to allow the proposed residence to better step with the natural contours of the lot. In doing so, this will eliminate or substantially reduce the unnecessary grading at the proposed rear yard on the northeast side of the residence.*

Discussion: The architect has further tiered the floor plan to step with the natural contours, followed by a roofline that also steps down the hillside. Although the residence was not rotated to better step with the natural contours of the lot, alternatively, the floors and roof design steps in the direction with the natural contours

- *The family room, recreation, nook, dining and living room floors should further step down.*

Discussion: The architect has further stepped down these areas of the residence to reduce the overall perceived height of the residence, particularly over the master bedroom.

- *Design elements should be added to the east elevation, particularly at the master bath exterior wall, to break up the long roofline.*

Discussion: The architect has revised the floor plan and has added some cantilevered bays and other architectural elements to the rear of the proposed residence to break up the otherwise long roofline at the rear.

The architect has responded to most of staff comments to reduce the appearance of bulk and mass, consistent with the Hill Area development standards and policies, particularly with Measure T. Staff believes that the proposed residence can benefit from some additional refinements, which include: revising the arched windows below the terraces on the west and south elevations to rectangular-shaped windows (Condition A-11); consistent with building code requirements, reduce the size of the balustrades proposed for railing to better fit with the scale of the residence, or, alternatively, replace them with "true" wrought iron (Condition A-12); reduce the amount of paving at the motor court from 28 feet to 24 feet (necessary for back-up) (Condition A-13); and, reduce the amount of grading at the rear of the residence needed to create the flat lawn area (Condition A-14).

The applicant's designer worked with staff to produce a design, which meets the intent of Measure T and development in the Hill Area. To this end, only minor refinement of the aforementioned architectural element treatments and associated improvements are necessary to achieve conformity with these measures. These minor enhancements and project revisions can be worked out during the Development Organization review process (Condition A-2).

**Hill Initiative of 2002 (Measure T):** As previously noted, because staff believes that only a portion of the project site at the lower elevation is located above the TOH as defined by Measure T, staff finds that it is appropriate to evaluate the project for consistency with Measure T performance standards. A finding for consistency with Measure T is included, based on the analysis below.

- **Parcel Size:** The initiative establishes a new minimum parcel size of twenty acres for all parcels in the Hill Area within City limits on January 1, 2002. The project is located on a parcel, which was a legal lot of record prior to the adoption of Measure T, and thus is not required to comply with Measure T's minimum lot size requirement.
- **Permitted Use:** A single-family residence is permitted on each legal parcel and secondary units to the extent required by State Law. However, all residential development in the "Hill Area" as defined by Measure T is subject to the Site Plan and Architectural Approval process by the Planning Commission.
- **Wetlands and Riparian Corridors:** Measure T does not allow the development of structures within "200 feet from the center of a permanent or intermittent stream bed". Neither is the proposed building site nor is the subject parcel itself located within 200 feet of a riparian corridor. The subject parcel is at least 2,500 feet from a riparian corridor located to the northeast. Developed single-family residences completely surround the subject parcel.
- **Critical Wildlife Habitat:** Development of the subject site will not impair any critical habitat, designated by the United States Fish and Wildlife Service for preservation of endangered or threatened plant and animal species. The subject site is completely surrounded by the development of existing single-family homes.
- **Steep Slopes:** Under Measure T, no structure or building (e.g., the residence and accessory structures), in whole or in part, may encroach on a slope of thirty percent (30%) or more. On the project site, there are no slopes equal to or greater than 30%. As such, there is no potential for the project to encroach on a slope of 30% or more.
- **Ridgelines and hilltops:** The project-building site is not located on a ridgeline or hilltop. Staff believes that only the lower portion of the project site, approximately sixty-five feet wide, is within the Hill Area on the City's Draft Toe of the Hill map. The area is approximately 16,640 square feet or 0.38 acres.
- **Development Envelopes:** Measure T requires that all buildings (i.e., any structure having a roof supported by walls or columns) on a parcel "shall be placed within a contiguous 'development envelope' not to exceed two acres." The subject parcel is exactly one acre in size, with no potential to be inconsistent with this provision.
- **Maximum Areas:** Measure T states, "the maximum floor area for all floors (regardless of composition) in buildings on a parcel may not exceed one percent (1%) of the parcel's area, or 20,000 square feet (maximum permitted), which ever is less, but for any parcel a minimum of 10,000 square feet shall be permitted." The proposed structure (including attached garage area) is 7,032 square feet in size.
- **Visual Safeguards:** Measure T states, "to the extent practicable, structures shall be located, including by setbacks from parcel boundaries, on that part of a parcel...that minimizes visibility from public places." Staff believes that the project is consistent with this performance standard. It should be noted that only the lower portion of the subject parcel is believed to be above the TOH. The applicant did not elect to propose the building at the higher elevation (and below the TOH), where the project would likely have an increased visual impact. The development of the project at a much lower elevation, although above the new draft TOH line, is, therefore, appropriate in meeting the visual safeguard provisions. In addition, with the use of the earth tone color treatment, landscaping, screening, building materials, etc., the project is consistent in achieving this goal.
- **Easements:** Measure T states, "An easement, conveyed to the City or the City's appropriate designee, shall be required for each parcel with respect to which development is permitted...[such] easement shall bar any further development that would not be permitted under this ordinance [Measure T]." It further

states, "The easement shall terminate when the parcel is restored substantially to its pre-development condition, so far as the effects of development are concerned." Measure T requires that an easement (that conveys no possessory interest to the City, nor confers any right to public access) be recorded on the subject site, particularly affecting the constrained areas of the site, to ensure conformity with the adopted performance standards. At such time the parcel is restored to its original condition, such as removal of all structures and grading a site substantially back to its pre-development condition, the easement would be terminated. Should the Planning Commission approve the project, the applicant will be required to comply with this standard (Condition A-23).

Based on the above analysis, staff finds that the proposed project, with some modifications as conditioned, would be consistent with the performance standards and goals.

**Landscaping/Open Space:** The project as proposed includes 4,393 square feet of paving to provide access and back-up space for a three car garage, a circular driveway, and a walkway to the main entrance located in the front yard. However, staff recommends a reduction in the amount of paving proposed for the back-up space adjacent to the garage from 28 feet to 24 feet (Condition A-14). In general, the landscaping moderately reflects a Mediterranean palette. The applicant proposes Queen Palms around the south side of the proposed residence. A row of Crape Myrtle trees is proposed along the southwest side of the residence. Jacaranda trees are proposed in the rear yard on the southeast side of the residence. Shrubs and groundcover include: Loropetalum, India Hawthorn, Fortnight Lily, Purple Lantana, Bronze Flax, Red Oleander, Oregon Grape, and Dwarf Oleander.

The conceptual landscape is acceptable, but staff finds that further enhancements to the plan are necessary during the Development Organization review process to make the planting palette more typical of, and consistent with, the Hill Area (Condition A-20). Staff recommends that larger trees found typically in the Hill Area be planted along the north, south, and west side of the residence. These trees should include: Coast Live Oak, Buckeye, Sycamore, Pepper or Black Walnut (Condition A-21). In addition, a minimum plant and tree size requirement will be required as a condition to ensure an advanced growth, particularly a 24-inch box minimum requirement for the slow growing Jacaranda and Oaks (Condition A-22).

## **ENGINEERING ANALYSIS:**

**Grading & Drainage:** The triangular-shaped subject parcel has an elevational difference of 75 feet with topography that ranges from 425 feet to 500 feet. The grade difference for the proposed building pad is 13 feet. The project site is moderately steep with a uniform slope of slightly less than 20 percent extending throughout the upper portion of the site. The lower portion of the subject parcel is at or slightly above a 20 percent grade, where the draft TOH line crosses the lot (See Informational Exhibit). Staff estimates that the lower portion of the project site, approximately sixty-five feet wide, is located within the Hill Area, as depicted on the City's Draft Toe of the Hill map. The area is approximately 16,640 square feet or 0.38 acres.

There are a few areas within the project that staff feels could be revised to comply better with the Hill Area performance standards. The paved area west of the garage could be reduced in width, while still providing adequate ingress to and egress from the garages. Also, the rear yard area, east of the recreation room, is proposed with five-foot cuts in order to provide a flat yard. This rear yard area could be less flat or reduced in width to better fit the existing topography. Finally, below the driveway there is a small area of fill, which staff believes is unnecessary. The applicant, project architect, and project civil engineer shall work with staff to reduce the grading in these areas. All grading will be subject to staff review and approval during the Development Organization review process (Condition A-14).

**Urban Runoff Clean Water Program:** The applicant will be required to conform to the City's Urban Runoff Clean Water Program requirements. Conditions of approval are included in this Site Plan and Architectural Approval project to reflect this requirement.

**ENVIRONMENTAL ANALYSIS:** The proposed single-family residence is categorically exempt under CEQA per Section 15303, New Construction of a single-family residence in a residential zone.

No comments for this project have been received to date.

**Development Impact Fees:** This project will be subject to Citywide Development Impact Fees. These fees include fees for fire protection, park facilities, capital facilities, and traffic impact. These fees shall be calculated at the fee rates in effect at the time of building permit issuance.

**Informational:** Info “1” (Photo simulation)  
Info “2” (Draft TOH Line Map for Subject Parcel)

1. Hold public hearing.
2. Find that the project PLN2003-00099 as proposed is categorically exempt from CEQA under Section 15303 as it relates to the construction of one single-family residence.
3. Find the project PLN2003-00099 as recommended by staff is consistent with standards, goals and policies of the Hill Area Development Policies, and General Plan for the reasons indicated in this report.
4. Find the project PLN2003-00099 is consistent with the goals and performance standards adopted under the Hill Initiative of 2002, Measure T, for the reasons indicated in this report.
5. Approve the project PLN2003-00099 as recommended by staff and shown on Exhibit "A", based upon the Conditions of Approval set forth in Exhibit "B" and Color and Material Board, Exhibit "C".

[illegible]

**EXHIBIT "B"**  
**Prasad Residence**  
**Site Plan and Architectural Approval**  
**PLN2003-00099**

**Conditions:**

**Prior to building permit issuance**

- A-1 The project shall conform to Exhibit "A", all Hill Area standards and policies, and all the conditions of approval set forth herein.
- A-2 The applicant shall submit appropriate plans to the Development Organization for review to ensure compliance with all City codes and policies, and the applicant shall continue to work with staff on the further refinements as indicated in these conditions. Any changes or modifications required through the Development Organization review process shall be incorporated into the project.
- A-3 The project shall be subject to City-wide Development Impact Fees. These fees may include fees for fire protection, park facilities, capital facilities and traffic impact. The fees shall be calculated at the rate in effect at the time of building permit issuance.
- A-4 Windows, doors, visibility of address and the like shall conform to the Security Ordinance, No. 2007, as amended, subject to the review and approval of staff during the Development Organization review process.
- A-5 Consistent with the Hill Area standards and policies, minor revisions of the site plan, building location and architectural details may be permitted within the overall context of the approved design concept, subject to the approval of the Assistant City Manager during the Development Organization review process.
- A-6 The project shall conform to the City's Hazardous Fire Area requirements as set forth in Chapter 16, Uniform Building Code, as amended.
- A-7 An approved automatic fire extinguisher system (AFES) shall be installed throughout the residence, subject to review and approval of staff during the Development Organization review process.
- A-8 All retaining walls shall be constructed of appropriate reinforced material and designed to match the texture and color of the building. No retaining wall shall exceed three feet in height.
- A-9 The location of open (true wrought iron) fencing shall be clearly indicated on plans. Consistent with the Fremont Municipal Code, solid fencing may be used only between adjoining structures and for privacy to a point twenty feet beyond the rear building line. Open screen fencing shall be used in all other locations.
- A-10 The applicant will be required to continue to work with staff on the selection of the final colors appropriate for the residence, subject to review and approval by staff during the Development Organization review process.
- A-11 The arched windows below the terraces on the west and south elevations shall be modified to rectangular-shaped windows, subject to review and approval by staff during the Development Organization review process.
- A-12 Reduce the size of the balustrades proposed for railing to better fit with the scale of the residence, or, alternatively, replace them with "true" wrought iron railings. If wrought iron railings are proposed, they shall be of "true" wrought iron. The ultimate design of the railings shall be subject to the review and approval of staff during the Development Organization review process, consistent with building code requirements.



- A-13 The amount of unnecessary paving at the motor court shall be reduced from 28 feet to 24 feet (necessary for back-up).
- A-14 The paved area west of the garage shall be reduced in width, while still providing adequate ingress to and egress from the garages. Also, the rear yard area, east of the recreation room, is proposed with five-foot cuts in order to provide a flat yard. This rear yard area shall be less flat or reduced in width to better fit the existing topography. Finally, the small area of fill below the driveway shall be eliminated. The applicant, project architect, and project civil engineer shall work with staff to reduce the grading in these areas. All grading will be subject to staff review and approval during the Development Organization review process.
- A-15 The applicant/contractor shall comply with the City's Urban Runoff Clean Water Program in accordance with the NPDES requirements issued by the State's Water Quality Control Board. The project plan shall include erosion control measures to prevent soil, dirt, debris, or other pollutants from entering the storm drain system during and after construction. A separate plan shall be submitted for this purpose and shall be subject to review and approval of Development Organization staff during the Development Organization process.
- A-16 The applicant/contractor is responsible for ensuring that all contractors are aware of all storm water quality measures and that such measures are implemented. Failure to comply with the approved construction Best Management Practices will result in the issuance of correction notices, citations, or stop orders.
- A-17 The applicant shall submit a detailed soils report including recommendations regarding drainage structures and the existing sub drain, prepared by a qualified soils engineer registered by the State of California.
- A-19 The location of trash/recycling bins shall be appropriately located on the site and screened, subject to the review and approval of Development Organization staff.
- A-20 The applicant shall submit a landscape plan with a planting palette typical of and consistent with the Hill Area, subject to staff review and approval during the Development Organization review process.
- A-21 Larger trees found typically in the Hill Area be planted along the north, south, and west side of the residence. These trees should include: Coast Live Oak, Buckeye, Sycamore, Pepper or Black Walnut.
- A-22 To ensure an advanced growth of slowing growing trees, a minimum 24-inch box tree size requirement shall be required for all slow growing trees, such as the Jacaranda and Oaks.
- A-23 In accordance the Hill Initiative of 2002, an easement, conveyed to the City or the City's appropriate designee, shall be required for the parcel with respect to which development occurs on the parcel. Such easement shall bar any further development that would not be permitted under the Initiative. The easement is negative only; it shall convey no possessory interest to the City, nor confer any right to public access. At such time the parcel is restored to its original condition, such as removal of all structures and grading the parcel substantially back to its pre-development condition, the easement would be terminated.

**Prior to forming and framing:**

- B-1 The project architect/ engineer shall submit a letter to the City certifying that the finished pad and floor elevations are consistent with the approved plans, subject to the review and approval of the Planning Director.

**During Construction:**

- C-1 Prior to installation of the stucco coat, the applicant or the applicant's representative, shall request an inspection of the residence by the project planner in order to ensure compliance with all of the architectural detailing of the building as specified in the approved drawings.

C-2 The property owner shall be responsible for litter control and sweeping of all paved surfaces. All on-site storm drains shall be cleaned immediately before the start of the rainy season beginning on October 15 each year, subject to the review of the Building Inspector.

C-3 Construction activities shall be limited to the following hours of operation:

7 a.m. to 7 p.m. Monday through Friday  
9 a.m. to 6 p.m. on Saturday

Failure to comply with the above-mentioned hours of operation will result in revocation of permits.

**Prior to release of building for occupancy:**

D-1 The project architect and landscape architect shall submit a letter to the Development Organization certifying the building and its associated landscaping have been constructed in conformance with the approved architectural and landscape plans.